

## TITLE 5. Education

### Education Audit Appeals Panel

#### Notice of Proposed Rulemaking

#### *Operating Procedures of the Education Audit Appeals Panel*

The Education Audit Appeals Panel (EAAP) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING:

EAAP will hold a public hearing starting at 3:00 p.m. on September 29, 2003, in the Redwood Room at 915 L Street, Sacramento, CA 95814. The room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. EAAP requests that any person desiring to present statements or arguments orally notify the Interim Clerk of EAAP of such intent. EAAP requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### WRITTEN COMMENT PERIOD:

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Interim Clerk. The written comment period closes at **5:00 p.m. on September 29, 2003**. EAAP will consider only written comments received by the Interim Clerk by that time (in addition to those comments received at the public hearing). Written comments for EAAP's consideration should be directed to:

Lenin Del Castillo, Interim Clerk  
Education Audit Appeals Panel  
915 L Street, # C419  
Sacramento, CA 95814  
Fax: (916) 323-9530  
e-mail: [Lenin.DelCastillo@dof.ca.gov](mailto:Lenin.DelCastillo@dof.ca.gov)

#### AUTHORITY AND REFERENCE:

Authority cited: Section 41344.1, Education Code; sections 11125.7 and 11400.20, Government Code. Reference: sections 14504, 41020, 41344 and 41344.1, Education Code; sections 11125.7 and 11440.50, Government Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

The Education Audit Appeals Panel (EAAP) proposes to adopt sections 19800 - 19801 and sections 19803 - 19805 in Title 5 of the California Code of Regulations (CCR). In 1999, EAAP was

constituted as a three-member panel to hear and decide appeals by local education agencies of apportionment significant audit exceptions that require repayment to the State of California. (Education Code Section 41344(d), Stats. 1999, c. 78 (AB 1115).) In 2002, significant changes were made to the laws governing EAAP operations. EAAP was established as a separate state agency with express rulemaking authority, and the administrative adjudication provisions of the Administrative Procedures Act (APA; Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of the Government Code) were made applicable to EAAP appeal proceedings. (Education Code Section 41344.1(a).) The 2002 law also created an informal summary review process through which the Executive Officer of the Panel may resolve apportionment significant audit exceptions. (Stats. 2002, c. 1128 (AB 2834).)

The purpose of these regulations is to establish operating procedures of EAAP in order to clarify, implement, and make specific the statutes that provide for appeals to the three-member Panel, and requests for summary review to the Executive Officer of the Panel. Specifically, these regulations will provide definitions of terms, rules for the conduct of Panel meetings, and the content of notices of appeal and requests for summary review, as well as procedures for withdrawing appeals and requests for summary review. The regulations will also clarify that the intervention provisions of the APA will apply to appeal proceedings of the Panel.

#### DISCLOSURES REGARDING THE PROPOSED ACTION:

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed upon local educational agencies: None  
Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impact on a representative private person or business: EAAP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant affect on housing costs: EAAP has made an initial determination that the proposed regulatory action would not affect housing costs.

Effect on small businesses: The proposed regulations will have no affect on small businesses because the regulations apply only to local education agencies authorized in statute to pursue appeals before EAAP.

#### CONSIDERATION OF ALTERNATIVES:

In accordance with Government Code Section 11346.5(a)(13), EAAP must determine that no reasonable alternative considered by EAAP or that has otherwise been identified and brought to the

attention of EAAP would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

EAAP invites interested persons to present statements or arguments regarding alternatives to the proposed regulations at the above-mentioned hearing or during the written comment period.

**CONTACT PERSONS:**

Inquiries concerning the substance of the proposed action, requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to Lenin Del Castillo, Interim Clerk of EAAP, at (916) 445-0328 or by e-mail: [Lenin.DelCastillo@dof.ca.gov](mailto:Lenin.DelCastillo@dof.ca.gov). The back-up contact person for general inquiries is Chad Rohrs at (916) 445-0328.

**AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS:**

The Interim Clerk will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at his office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Interim Clerk at the above address.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT:**

Following the public hearing and considering all timely and relevant comments received, EAAP may adopt the proposed regulations substantially as described in this notice. If EAAP makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before EAAP adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Interim Clerk at the address indicated above. The Interim Clerk will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS:**

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Interim Clerk at the above address.

**AVAILABILITY OF DOCUMENTS ON THE INTERNET:**

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons can be accessed, or will be accessible, through the Education Audit Appeal Panel's website: [www.eaap.ca.gov](http://www.eaap.ca.gov)